

**Timothy J. Hogan**

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**From:** Timothy J. Hogan  
**Sent:** Tuesday, February 14, 2006 7:57 AM ←  
**To:** Damian Capozzola  
**Cc:** Brenda Sakamoto; Eric Liebeler (E-mail); Lex Smith (E-mail); Lex Smith; Lyle Hosoda (E-mail); Lyle Hosoda (E-mail); Michael Baumann; Raina Mead  
**Subject:** RE: PCT-B MW 02871 - 02923

Mr. Capozzola:

Mr. Capozzola: You have produced evidence that you were communicating with Walker on March 9, 2005 and that email indicates likely earlier contact. The first billing is March 26, 2005. Your transmittal of materials (that were not provided to me) shows that on March 21, 2005 you sent what must be a large package of paper documents and a CD apparently out of the blue because we see no written contact between March 9, 2005 and the March 21, 2005 transmittal. I presume you have a reason for withholding the CD and the documents from me.

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We have also detected a gap in September 2005. His invoice 58 that covers August appears to have been redacted.

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Please have Walker produce the CD with the materials that have been withheld regarding the copyright registration as evidenced by your email. We will make a copy and return them to Mr. Smith.

Tim Hogan

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Timothy J. Hogan  
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**From:** Damian Capozzola [mailto:[dcapozzola@kirkland.com](mailto:dcapozzola@kirkland.com)]  
**Sent:** Tuesday, February 14, 2006 6:46 AM  
**To:** Timothy J. Hogan  
**Cc:** Brenda Sakamoto; Eric Liebeler (E-mail); Lex Smith (E-mail); Lex Smith; Lyle Hosoda (E-mail); Lyle Hosoda (E-mail); Michael Baumann; Raina Mead  
**Subject:** RE: PCT-B MW 02871 - 02923

Mr. Hogan:

Have you seen PCT-B MW 2795? It is dated April 5, 2005 and reflects a billing entry dated March 26, 2005. A copy was also produced to you in May, 2005 (PCT-B MW 2357).

El Tamarindo is a vacation resort in Jalisco, Mexico. See [www.eltamarindoresort.com](http://www.eltamarindoresort.com). I stayed there and recommended it to Dr. Walker. El Tamarindo obviously has no bearing on this case, as you could easily have determined if you had done even the slightest investigation on your own.

I trust this resolves these two particular concerns, which you could have resolved yourself if you had taken the time to look through our previous PCT-B MW production materials or typed "el tamarindo" into any search engine, but obviously you did not. With trial only two weeks away I really have neither the time nor the desire to continue to jump at your command. So in response to your other e-mail here with the next bates numbers in sequence is the March 21, 2005 transmittal letter concerning the initial copyright filing, with photostatic copy of CD. The rest of your requests are respectfully denied.

Thank you for your attention to these matters.

--Damian Capozzola

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"Timothy J. Hogan" <tjh@loio.com>

02/13/2006 02:27 PM

To "Michael Baumann" <mbaumann@kirkland.com>  
 "Brenda Sakamoto" <bls@ksglaw.com>, "Damian Capozzola \\\(E-mail\\)"  
 <dcapozzola@kirkland.com>, "Eric Liebeler \\\(E-mail\\)"  
 <eliebeler@kirkland.com>, "Lex Smith" <lsr@ksglaw.com>, "Lex Smith \\\(E-  
 cc mail\\)" <lex@gte.net>, "Lyle Hosoda \\\(E-mail\\)" <lshosoda@hotmail.com>,  
 "Lyle Hosoda \\\(E-mail\\)" <lsh@hosodalaw.com>, "Michael Baumann"  
 <mbaumann@kirkland.com>, "Raina Mead" <rpbm@hosodalaw.com>  
 Subject RE: PCT-B MW 02871 - 02923

Dear Mr. Baumann:

Walker is communicating with your firm on March 9, 2005 but his first billing entry is April 26, 2005. In light to the withholding of material evidence we demand full un-redacted PCT check register for the period of January 1, 2005 to the present. In addition please submit all K&E time records for the same period related to the PCT and Core Mark and all documents and notes related to El Tamarindo and all web conferences related to Walker.

Tim Hogan

Timothy J. Hogan  
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**From:** Damian Capozzola [mailto:[dcapozzola@kirkland.com](mailto:dcapozzola@kirkland.com)]  
**Sent:** Monday, February 13, 2006 9:38 AM  
**To:** Timothy J. Hogan  
**Cc:** Michael Baumann; [lrs@ksqlaw.com](mailto:lrs@ksqlaw.com); [lsh@hosodalaw.com](mailto:lsh@hosodalaw.com)  
**Subject:** Fw: PCT-B MW 02871 - 02923

Mr. Hogan

In the probably vain hope that this will avoid unnecessary controversy and provide you with some assurance that you have the data and information that Mr. Walker used, reviewed or looked at in forming his opinions, please find attached PCT-B MW 02871-02923, which contain e-mail transmittals between me and Dr. Walker. To save unnecessary waste of paper we have not included the attachments, which largely are self-explanatory and you should already have. (The "Page 394" on PCT-B MW 02902 is page 394 from Berry's copyright registration). By sending you this material, I am NOT stating that these e-mails are actually data or information used, reviewed or looked at by Mr. Walker, but the transmittal e-mails were sent between us.

Thank you for your attention to these matters.

--Damian Capozzola

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